

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JANELL SALGADO, Administrator of the)
Estate of VICTOR ANGEL FLORES,)
deceased,)
)
Plaintiff,)
)
v.)
)
JOHN, JAMES and MARY DOE, individually)
and as agents/employees of CITY OF CHICAGO,)
and CITY OF CHICAGO, a municipal)
corporation;)
)
Defendants,)
)

Case No. 08 C 2878
Judge Gottschall
Magistrate Judge Mason

**PLAINTIFF'S MOTION TO CONTINUE PARTS OF DEFENDANT'S MOTION
OR FOR ALTERNATIVE RELIEF**

Plaintiff, JANELL SALGADO, Administrator of the estate of VICTOR ANGEL FLORES, deceased, by her attorneys, BAAL & O'CONNOR, moves to enter and continue the portion of defendant's motion [filed on August 8, 2008 that seeks to dismiss allegations (b), (c), (d), (e), (f), (h), and (i) in Counts III and IV], to a date shortly after defendant has answered written discovery, or in the alternative, moves for leave to file an amended complaint, or in the further alternative, requests until September 25, 2008 to file its response to this portion of the motion to dismiss (that seeks to dismiss allegations (b), (c), (d), (e), (f), (h), and (i) in Counts III and IV).

Plaintiff will file, by September 10, 2008 its response to the portion of defendant's motion that seeks to dismiss allegations s (j) through (q) in Counts III and IV.

This is a wrongful death/survival action and also a Section 1983 action arising from the wrongful death of VICTOR ANGEL FLORES (hereinafter VICTOR), whom the City of

Chicago and various of its police officers allowed to commit suicide while VICTOR was in their exclusive custody and control and when the City and these officers knew about VICTOR'S suicidal and serious mental health condition.

Defendant moves to dismiss the following subparts in Paragraph 41 of Count III: b, c, d, e, f, h, and I, and moves to dismiss these same subparts in Paragraph 46 of Count IV, claiming the allegations involve discretionary acts and thus the City and its officers are immune from liability pursuant to Section 2-201.

On information and belief, the City has Police Department general orders, guidelines, rules, and policies and procedures concerning the care and treatment of arrestees with known suicidal and/or serious mental health conditions (such as VICTOR), which would almost certainly include provisions pertaining to the acts and omissions described in the allegations which the City moves to dismiss. Assuming such rules, guidelines, and policies and procedures exist, the acts/omissions described in the aforementioned allegations (that the City seeks to dismiss) are not discretionary [see Torres v. City of Chicago, 123 F.Supp.2d 1130 (N.D. Ill. 2000)], and thus, neither the City nor those officers are immune for the willful and wanton conduct described in those allegations. See Torres.

Clearly, it is premature to bring this motion until all relevant written materials are received in this matter. Therefore, Plaintiff requests this Court to enter and continue this portion of defendant's motion until a date shortly after defendant answers written discovery, which Plaintiff has attached to this motion. Plaintiff proposes that defendant answer this attached written discovery by October 30, 2008 and that Plaintiff respond to this portion of the motion (that seeks to dismiss allegations (b), (c), (d), (e), (f), (h), and (i) in Counts III and IV) by November 14, 2008.

In the alternative, if the Court denies that request, Plaintiff requests 7 days to file an amended complaint. In the further alternative, if the Court denies both the aforementioned requests, Plaintiff requests until September 25, 2008 to file its response to this portion of the motion to dismiss (that seeks to dismiss allegations (b), (c), (d), (e), (f), (h), and (i) in Counts III and IV).

WHEREFORE, Plaintiff moves for an order in accordance with this motion.

s/Bryan J. O'Connor Jr.

BRYAN J. O'CONNOR JR.

"Lead Counsel" for Plaintiff

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corporation;)
Defendants,)
)

INTERROGATORIES TO DEFENDANT

Plaintiff, by her attorneys, BAAL & O'CONNOR, and pursuant to Rule 33 of the Federal Rules of Civil Procedure, issues the following interrogatories, to be answered under oath by Defendant within (30) days from the date Defendant receives them.

1. State the full name and address of the person answering these interrogatories, and if different, the full name and address of the individual signing the answers to these interrogatories:

ANSWER:

2. State the name and job title of each City of Chicago employee, and/or Chicago Police Department employee, who was at or near 1212 South 50th Avenue on June 27, 2007 and/or June 28, 2007:

ANSWER:

3. State the name and job title of each City of Chicago employee, and/or Chicago Police Department employee, who executed, on June 27, 2007 and/or June 28, 2007, the arrest warrant issued against Victor Angel Flores:

ANSWER:

4. State the name and job title of each City of Chicago employee, and/or Chicago Police Department employee, who was in the vehicle that transported, on June 27, 2007 and/or June 28, 2007, Victor Angel Flores from 1212 South 50th Avenue to the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL:

ANSWER:

5. List the name, address and employer/job title of each person who was involved in the “intake”, “booking”, “screening”, and/or “assessment” of Victor Angel Flores at the Chicago Police Station at 3151 W. Harrison Street in Chicago Illinois on June 27, 2007 and/or June 28, 2007:

ANSWER:

6. If different than the persons listed in Answer to #5, list the name, address and employer/job title of each person who did an inventory of Victor Angel Flores’ possessions/valuables/belongings when Victor was brought to the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007:

ANSWER:

7. State the name, address and employer/job title of all persons assigned to guard, monitor, watch or supervise Victor Angel Flores on June 27, 2007 and/or June 28, 2007 while Victor was inside the Chicago Police Station at 3151 W. Harrison in Chicago, IL

ANSWER:

8. List the name, address and employer/job title of any person who provided medical care/treatment and/or mental health care/treatment to Victor Angel Flores while Victor was at the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007

ANSWER:

9. List the name, addresses and employer/job title of any persons (or entities), who in June of 2007, were responsible for providing medical care/treatment and/or responsible for providing mental health care/treatment to arrestees at the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL

ANSWER:

10. List the occasions, prior to June 27, 2007, in which the Chicago Police Department arrested or detained Victor Angel Flores, and for each such incident, list (a) the name and job title of the arresting officer(s); (b) the reason why Victor Angel Flores was detained/arrested; and (c) location where Victor was detained/arrested:

ANSWER:

11. List the names and addresses of all persons who shared a cell and/or holding/booking room with Victor Angel Flores while Victor was at the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007

ANSWER:

12. List the name and address of each person who tried to contact (either in person, by written correspondence or by telephone) Victor Angel Flores on June 27, 2007 and/or June 28, 2007 while Victor was at the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL

ANSWER:

13. List the name, address and phone number of each person(s) that Victor Angel Flores contacted, or tried to contact, on June 27, 2007 and/or June 28, 2007 while Victor was at the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL;

ANSWER:

14. List all items such as food, clothing, sheets or towels that Victor Angel Flores received on June 27, 2007 and/or June 28, 2007 while Victor was at the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL; and for each such item, state (a) the name and job title of the person who furnished such item and (b) the time such item was furnished; and (c) a description of the item that was furnished;

ANSWER:

15. List the name, address, and employer/job title of all persons not previously listed, who (a) have knowledge of the condition of Victor Angel Flores on June 27, 2007 and/or June 28, 2007; (b) have knowledge of the care and treatment of Victor Angel Flores while Victor was at 1212 South 50th Avenue on June 27, 2007 and/or June 28, 2007; (c) have knowledge of the care and treatment of Victor Angel Flores while Victor was transported from 1212 South 50th Avenue to the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007 and (d) have knowledge of the care and treatment of Victor Angel Flores while he was at the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007

ANSWER:

16. A list of all suicides that occurred at Chicago Police Department Stations from 2003 to 2008, and for each such suicide, state (a) the date on which the suicide occurred; (b) the particular station at which the suicide occurred; and (c) the manner in which the suicide occurred;

ANSWER:

17. A list of any restraints or other devices that were used on Victor Angel Flores while Victor was transported from 1212 South 50th Avenue to the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007 and/or while Victor was at the Chicago Police Department Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007, and for each such device/restraint, state (a) the type of device/restraint used; (b) when such restraint/device was applied; and (c) who applied such restraint/device;

ANSWER:

18. A list of any grievances, complaints, letters, notes, requests that Victor Angel Flores made while transported from 1212 South 50th Avenue to the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007 and/or while Victor was at the Chicago Police Department Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007, and for each such complaint/request, state (a) the date/time it was made; (b) the nature of the complaint/request; and (c) the person to whom such complaint/request was made;

ANSWER:

19. List the names of all persons, hospitals, physicians, or health care providers with whom you contacted (either orally or in writing) to discuss, and/or to request information about, Victor Angel Flores' condition, and for each such request, state (a) the person who made such request; (b) when such request was made; and (c) to whom such request was made;

ANSWER:

20. Has any City of Chicago employee or agent and/or any Chicago Police Department employee or agent made any statements, or had any conversations regarding, (a) the condition of Victor Angel Flores on June 27, 2007 and/or June 28, 2007; (b) the care and treatment of Victor Angel Flores on June 27, 2007 and/or June 28, 2007 while Victor was at 1212 South 50th Avenue or while Victor was being transported from that address to Chicago Police Department Station at 3151 W. Harrison Street or while Victor was at the Chicago Police Department Station at 3151 W. Harrison Street. If yes, state

- (a) The name, address and employer/job title who made such statement or had such conversation;
- (b) The name and address of each person to whom the statement was made, or with whom the conversation was had
- (c) The date of such conversation or date the statement was made;

(d) The name and address of each person who currently has each memorandum of conversation and/or statement

ANSWER:

21. State whether you, your attorneys or agents have any statements, notes, or other memoranda of conversations with Victor Angel Flores or conversations with persons who claim to have witnessed or have knowledge of, (a) the condition of Victor Angel Flores on June 27, 2007 and/or June 28, 2007; (b) the care and treatment of Victor Angel Flores on June 27, 2007 and/or June 28, 2007 while Victor was at 1212 South 50th Avenue or while Victor was being transported from that address to Chicago Police Department Station at 3151 W. Harrison Street or while Victor was at the Chicago Police Department Station at 3151 W. Harrison Street. If yes, state

(a) The name and address of the person who made such statement or had such conversation;

(b) The name and address of each person to whom the statement was made, or with whom the conversation was had

(c) The date of such conversation or date the statement was made;

(d) The name and address of each person who currently has each memorandum of conversation and/or statement

ANSWER:

22. State whether any investigation of Victor Angel Flores' death and/or investigation of the care and treatment rendered to Victor Angel Flores was made by any persons (entities) on behalf of you or your insurance company. If so, state:

(a) The name, address and employer of each person who conducted any investigation;

(b) State whether any written data - including though not limited to - reports, records, memoranda, notes, status reports, canvasses, recordings, interviews, etc. - was prepared during, or as a result of, the investigation

(c) The names and addresses of persons or entities now in possession of any or all of said written data.

ANSWER:

23. Where any photographs, diagrams, plates, surveys, or other demonstrative evidence of the scene, Victor Angel Flores, objects or persons involved in the occurrence made? If so, state:

- (a) Identify by type, number and subject matter each piece of demonstrative evidence;
- (b) The date on which each was made;
- (c) The name, address, employer and job title of the person who prepared or photographed each;
- (d) The name and addresses of the person in present possession of each.

ANSWER:

24. At the time of the occurrence, were you covered by a liability insurance policy or policies? For each insurance policy, state the name and address of the insurer, the policy number, the period for which the policy was in effect, the maximum liability limits in total and per occurrence, and the named insureds under each policy.

ANSWER:

25. List the name and address of each witness who will testify at trial and state the subject matter of each witness' testimony.

ANSWER:

26. Pursuant to Federal Rule of Civil Procedure 26(a)(2), list the name and address of each opinion witness who will offer any testimony and state:

- (a) The subject matter on which each opinion witness is expected to testify;
- (b) The conclusions and/or opinions of each opinion witness and the basis therefor, including whether written reports have been prepared by the witness(es) and if so, attach copies of the reports, if any;
- (c) The qualifications of each opinion witness, including a curriculum vitae and/or resume with all such experts' publications, if any;
- (d) Whether or not the opinion witness has been retained by you to testify at trial;
- (e) A list of each case in which such expert has testified at trial or in deposition within the last 4 years.

(f) All exhibits to be used at trial by such expert.

ANSWER:

27. Identify any statements, information and/or documents known to you and requested by any of the foregoing interrogatories which you claim to be work product or subject to any common law or statutory privilege, and with respect to each interrogatory, specify the legal basis for the claim of privilege.

ANSWER:



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corporation;)
Defendants,)

PLAINTIFF'S REQUEST TO PRODUCE

Plaintiff, by her attorneys, BAAL & O'CONNOR, and pursuant to Rule 34 of the Federal Rules of Civil Procedure, requests Defendants to produce the following documents and/or tangible things for inspection and copying within 30 day from receipt of this request

- a. All statements (either written, transcribed, taped, and/or "videographed") by the defendant, his agents or employees concerning (a) Victor Angel Flores (b) the arrest and detainment of Victor Angel Flores at 1212 South 50th Avenue on June 27, 2007 and/or June 28, 2007; (c) Victor Angel Flores while he was transported to, or while he was at, the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007 and/or (d) the investigation of the death of Victor Angel Flores
- b. All statements (either written, transcribed, taped, and/or "videographed") from any other witness, or person with knowledge, concerning (a) Victor Angel Flores (b) the arrest and detainment of Victor Angel Flores at 1212 South 50th Avenue on June 27, 2007 and/or June 28, 2007; (c) Victor Angel Flores while he was transported to, or while he was at, the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007 and/or (d) the investigation of the death of Victor Angel Flores

- c. All photographs, videos, cassettes, CD's, sketches, drawings, blue-prints, and/or slides pertaining to (a) Victor Angel Flores, including those taken/done subsequent to Victor's death; (b) the areas in which Victor was held/detained while Victor was at that Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007; (c) the investigation of the death of Victor Angel Flores
- d. All reports concerning (a) the arrest and detainment of Victor Angel Flores at 1212 South 50th Avenue on June 27, 2007 and/or June 28, 2007; (b) Victor Angel Flores while he was transported to, or while he was at, the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007; and/or (c) the investigation of the death of Victor Angel Flores

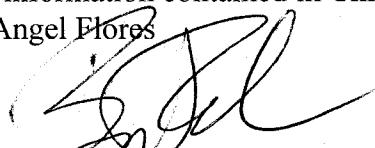
Such reports should include, but are not limited to, Investigative Reports; Incident Reports; Accident Reports; Police Agency Reports; Supplemental Reports; Crime Scene Reports; Use of Force Reports; Reports of Findings and Recommendations; Inspection Reports; Audits; Assessments; and Internal Affairs Reports

- e. All reports, findings, recommendations, and conclusions by any "non Chicago Police Department" employee, agency, and/or entity concerning the death of Victor Angel Flores and/or concerning the care and treatment of Victor Angel Flores while Victor was in the custody of Chicago Police Department on June 27, 2007 and/or June 28, 2007
- f. All reports and records concerning the confiscation and/or inventorying of Victor Angel Flores personal belongings/possessions/property/valuables while Victor was in the custody of City of Chicago and/or Chicago Police Department on June 27, 2007 and/or June 28, 2007. Such reports and records shall include, but are not limited to, Evidence Disposal Reports; Evidence Receipts; Inventory Records and Receipts; and list of items/valuables/belongings/possessions taken from Victor Angel Flores
- g. All Admission Screenings; Risk Screenings; Health Screenings; and Suicide Screenings concerning Victor Angel Flores while Victor was in the custody of City of Chicago and/or Chicago Police Department on June 27, 2007 and/or June 28, 2007
- h. All booking forms; Intake Forms; and Assessment forms concerning Victor Angel Flores while Victor was in the custody of City of Chicago and/or Chicago Police Department on June 27, 2007 and/or June 28, 2007
- i. All data, reports, and/or medical and hospital records concerning the health, physical well-being, mental well-being, and/or mental condition of Victor Angel Flores while Victor was in the custody of City of Chicago and/or Chicago Police Department on June 27, 2007 and/or June 28, 2007. Such data and reports shall include, but are not limited to, Medical Maintenance Forms; Physician Orders; Physician and Nursing

Notes; Requests for Records; Medical Intake Forms; Medical records; Hospital Records; Infirmary Records and Logs

- j. All data, records, correspondence, and reports showing the City of Chicago and/or Chicago Police Department employees, personnel or agents who monitored, guarded, watched or supervised Victor Angel Flores while Victor was in the custody of City of Chicago and Chicago Police Department on June 27, 2007 and/or June 28, 2007, including, but not limited to, Officer Duty Logs; Assignment Sheets; Activity Logs; Guard Tour Check Sheets; Guard Round Check Sheets; and Guard Tour Logs;
- k. Staff patrols, Staff counts, and staff supervisors for the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007
- l. All data, records, correspondence and reports showing persons who contacted (either via phone, written correspondence, or in person) or tried to contact Victor Angel Flores while Victor was in the custody of City of Chicago and/or Chicago Police Department on June 27, 2007 and/or June 28, 2007, including, but not limited to, Phone Records; Copies of Letters; Sign-in & Sign-Out Sheets; and Visitor Logs;
- m. A list of all grievances, complaints, requests, phone calls, notes, letters made by Victor Angel Flores while Victor was in the custody of City of Chicago and/or Chicago Police Department on June 27, 2007 and/or June 28, 2007
- n. Housing sheets and/or records showing were arrestees, including Victor Angel Flores, were detained/placed inside the Chicago Police Station at 3151 W. Harrison Street in Chicago, IL on June 27, 2007 and/or June 28, 2007
- o. All records showing restraints or devices that were used on Victor Angel Flores while Victor was in the custody of City of Chicago and/or Chicago Police Department on June 27, 2007 and/or June 28, 2007
- p. All contracts, requests for proposal, bids, attachments or exhibits between City of Chicago and/or Chicago Police Department and the Company or Entity who provided medical care, services and treatment and/or mental health care/treatment/services to arrestees at Chicago Police Department stations from October 1, 2005 and October 1, 2007
- q. Copies of all policies, protocols, rules, guidelines; procedures and General Orders that were in effect for the Chicago Police Department between June 1, 2005 and October 1, 2007
- r. Copies of all rules, regulations and procedures issued to arrestees held/detained at Chicago Police Stations between June 1, 2005 and October 1, 2007

- s. All insurance policies, agreements, certificates and riders pertaining to City of Chicago and Chicago Police Department that were in effect between June 1, 2007 and October 1, 2007
- t. Emergency Response Team reports or records and/or Emergency Response plans, protocols, rules, and/or procedures
- u. All documents, objects, and tangible things that are in the possession of a consulting expert and which do not contain his or her opinions;
- v. All textbooks, periodicals, booklets, documents, tables, articles, standards, and regulations that will be relied upon or utilized by the defendant at trial: This request continues through trial.
- w. The 2005, 2006, and 2007 annual reports of the Chicago Police Department
- x. All non privileged documents and information contained in Chicago Police Department file/folder for Victor Angel Flores



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